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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,990	09/12/2003	John D. Hottovy	CPCM:0023/FLE210318US1	6088

7590 08/25/2005

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EXAMINER

LU, C CAIXIA

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,990

Applicant(s)

HOTTOVY ET AL.

Examiner

Caixia Lu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 21-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/5/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 2, 5 and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 2

The limitation of "withdrawn through a plurality of catalyst feeds" is not disclosed in the specification.

Claims 5 and 8

The base of the percentage of the monomer is not defined.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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3. Claims 1,3, 4, 6,7, 9-15, and 21-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over (i) claims 1-25 of U.S. Patent No. 6,239,235, (ii) claims 1-19 of U.S. Patent No. 6,806,324, (iii) claims 1-9 of U.S. Patent No. 6,743,869, and (iv) claims 1-13 of U.S. Patent No. 6,815,511. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter of the instant claims is the obvious variations of claims of the cited US patents.

Claim Rejections - 35 USC § 102

4. Claims 1,3, 4, 6,7, 9-15, and 21-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Hottovy et al. (US 6,239,235).

Hottovy teaches an olefin slurry polymerization process conducted in a loop reactor with continuous product slurry take off wherein the monomer is introduced at plurality of locations to the loop reactor, the slurry polymer product is removed from the loop reactor at a plurality of continuous take off appendages (col. 4, lines 8-12; col. 5, lines 41-42; col. 6, lines, 2-26 and 44-54; and claims 1-10). Hottovy's teaching encompasses the instant claims.

5. Claims 1-15 and 21-27 are rejected under 35 U.S.C. 102(E) as being anticipated by Kendrick et al. (US 2002/0173598 A1, now US Pat. No. 6,833,415, the application publication is cited in the rejection below).

In claims 161 and 162 of page 17, Kendrick claims a polymerization process in a loop reactor comprising feeding the catalyst into the reactor from multiple inlets, feeding monomer, comonomer, diluent and other additives to the

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reactor through multiple feed inlets, and discharging the polymer slurry intermediate product through at least two discharge conduits; wherein the feed inlets are symmetrically arranged around the reactor and the reaction kinetics are maintained constant. The multiple feed inlets and multiple discharge conduits are demonstrated in Figs. 5 and 6 with explanations in paragraphs [0064] and [0065] on page 6, and paragraphs [0071] on page 7. Kendrick teaches that the discharging slurry intermediate product has a higher weight percentage of polymer solids than the weight percentage of solids in the circulating slurry in the reactor (paragraphs [0026] and [0027]), the difference of the reactant monomer concentrations, measured in wt.%, taken at any two points along the loop reactor is within 20% of the higher value (paragraph [0063]). The range of ethylene concentration of Kendrick's Example 3 and 4 are 0.4 and 1.0 wt.% respectively.

Kendrick's teaching encompasses the instant claims and Kendrick's claims are substantially identical or obvious variations of the instant claims.

Response to Arguments

6. Applicant's arguments filed June 27, 2005 have been fully considered but they are not persuasive.

The Kendrick reference is U.S. patent or U.S. patent application publication of a pending or patented application that claims the rejected invention. Applicant's declaration of June 27, 2005 is inappropriate under 37 CFR 1.131(a) because the reference is claiming the same patentable invention, see MPEP § 2306. If the reference and this application are not commonly owned, the reference can only be overcome by establishing priority of invention through

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interference proceedings. See MPEP Chapter 2300 for information on initiating interference proceedings. If the reference and this application are commonly owned, the reference may be disqualified as prior art by an affidavit or declaration under 37 CFR 1.130. See MPEP § 718.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Caixia Lu whose telephone number is (571) 272-1106. The examiner can normally be reached from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful and the matter is urgent, the examiner's supervisor, David Wu, can be reached at (571) 272-1114. The fax numbers for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1700.

A handwritten signature in cursive script, appearing to read 'Caixia Lu'.

Caixia Lu, Ph. D.
Primary Examiner
August 21, 2005